(*Note*.—An asterisk *at the commencement of a speech indicates revision by the Member.)

9-00 a.m.

II.—PRIVILEGE MATTER

FUNCTIONING OF THE D.M.K. MEMBERS OF THE HOUSE IN VIEW OF THE PARTY'S ANNOUNCEMENT TO BURN A PART OF THE CONSTITUTION.

MR. SPEAKER : The hon. Member Sri S. Nanjunda Row raised a point of privilege sometime before, which was as follows :—

"All the members of this Assembly have taken oath before entering office that they will bear true faith and allegiance to the Constitution of India as by law established and that they will faithfully discharge the duty upon which they are about to enter.

Now I wish to raise a question of privilege whether the D.M.K. Party members, who form the main Opposition in the Assembly, having publicly announced that their policy is to burn a part of the Constitution, can be allowed to function as Members in the Assembly, since they have flagrantly broken or propose to break the solemn oath taken by them."

Sri S. Nanjunda Row has renewed his point of privilege on 15th March 1964.

The point raised by the hon. Member Sri S. Nanjunda Row is that whether the Members of the Assembly belonging to D.M.K. Party, who have publicly announced that their policy is to burn a part of the Constitution, can be allowed to function as members of the Assembly in view of the fact that those members have broken or proposed to break the oath they have taken that they will bear true faith and allegiance to the Constitution.

A member can function as a member as long as he continues to be a member. Articles 190 and 191 of the Constitution provide under what circumstances a member vacates his seat and under what circumstances he incurs disqualification for continuing to be a member. Further a member can also be expelled by the House if he has committed contempt of the House. The proposed act of the said members does not amount to vacation of the membership under Article 190 or incurring any disqualification.

Article 189 provides that every member before taking his seat in the Assembly should take an oath or make an affirmation. Every member of the Assembly belonging to the D.M.K. Party has taken his oath or made his affirmation before taking his seat in the House. These members have affirmed that they will bear true faith and allegiance to the Constitution of India. The contention of the member is that burning a part of the Constitution will be against the spirit of the affirmation made by the members. Burning of the Constitution has been made an offence under an Act of this Legislature. If anybody commits the offence the law will take its course. The House under the circumstances cannot do anything.

In 1939, a point of order was raised in a State Legislative Assembly as to the constitutional implications of a member taking the oath of allegiance with mental reservation. The Hon. Speaker ruled that there was not a shadow of doubt that an oath of allegiance to work for the independence of one's own country could not be said to be incompatible with the oath of allegiance to His Majesty the King Emperor and in this connection he quoted the following views of Professor Keith, in his book named 'Responsible Government in the Dominions' Volume II, page 1254 :—

"It has long been argued that there was nothing incompatible in taking the oath while continuing to work for complete independence. In the Union of South Africa, Nationalist members and Ministers have never hesitated to regard their oaths as quite compatible with working openly for independence. This view now prevails."

Again in the first volume at page 389, Professor Keith has stated as follows :—

"It is an essential feature of all Parliaments that the members are required to take an oath of allegiance to the Crown as a condition of taking their seats. In the case of Irish Free State the oath is primarily one of the true faith and allegiance to the Irish Free State Constitution but also to the King, his heirs and successors by law in virtue of the common citizenship of Ireland with Great Britain and adherence to, and membership of the Group of Nations forming the British Commonwealth of Nations."

So, it might be argued that just in the same way that an oath of allegiance to work for the independence of one's own country could not be said to be incompatible with the oath of allegiance to His Majesty the King Emperor, the burning of a portion of a Constitution might not be incompatible with the allegiance to the Constitution as it was their main idea to concentrate by so doing public opinion on the need to amend the particular part of the Constitution so burnt.

In the House of Commons, on June 11, 1952 when a Member drew the attention of the Speaker to the description of the oath of allegiance as a "scrap of paper" by another Member of the House of Commons and pointed out that it amounted to a contempt, since it imputed that a declaration or oath was a meaningless formality and was calculated to bring the proceedings of the House into public disrepute, the Speaker ruled that there was no *prima facie* case of breach of privilege and that this was a matter of law. He also quoted the ruling given by the Court of Appeals in Mr. Bradlaugh's case wherein objection was taken "that as he had no belief in God, the oath would not be binding on his conscience and therefore merely going through the prescribed form

would amount to not taking the oath and therefore he could not be permitted to take an oath and consequently sit in the House ". However, the Court of Appeal on January 28, 1885, ruled that if Mr. Bradlaugh took his seat and voted as a Member, having gone through the form of making and subscribing the oath, which, he had previously admitted, had no binding effect upon his conscience, he would be liable upon information at the suit of the Attorney-General to the penalty imposed by the Parliamentary Oaths Act, 1866, Section 5.

The Constitution of a country is regarded as a symbol sacred to the nationalism of the State and if one does not respect such national symbols he does injury to the very conception of the unity of the State itself. The national character of the Constitution should be respected by one and all. Definite procedures have been laid down in the Constitution itself for amending the provisions and they must be followed whenever a party or members seek to amend the same. Burning a part of the Constitution does not amount to amending the Constitution. It is not proper way at all.

In the House a member has freedom of speech but this freedom is subject to the provisions of the Consitution and rules of procedure. But this freedom does not apply to speeches made outside the House. It may not be possible to take cognizance of activities of members which have no bearing on their legislative duties. The act complained of has no connection with the work of a legislator as a legislator. Such acts are subject to the operation of the law of the land. Members are answerable to such acts in the same way as other citizens.

Burning the Constitution is an offence. A Member should not state in the House that he will burn the Constitution; thereby he will be stating that he would be breaking the law. The freedom of speech should not be used for such purposes.

The matter raised by the hon. Member does not, therefore, involve any breach of privilege.

III.—ANNOUNCEMENT.

THE MADRAS PAYMENT OF SALARIES AND REMOVAL OF DISQUALIFICATIONS (AMENDMENT) BILL, 1964.

MR. SPEAKER : I have to announce to the House that the Governor has given his recommendation for the introduction in, and consideration by, the Madras Legislative Assembly of the Madras Payment of Salaries and Removal of Disqualifications (Amendment) Bill, 1964.